



C.W.P. No. 19314 of 2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 19314 of 2024

Date of decision: 21.08.2024

Hero Moto Corp Limited

.... Petitioner

Vs.

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Puneet Bali, Senior Advocate with
Mr. Rahul Malhotra, Advocate,
Ms. Shruti Garg, Advocate,
Mr. Abhishek, Advocate and
Mr. Anmol, Advocate, for the petitioner.

ARUN PALLI, J (Oral)

The petitioner (Hero Moto Corp Limited) has prayed for the following substantive relief:

“Civil Writ Petition under Articles 226/227 of the Constitution of India, praying for the issuance of a writ, order or direction, especially for the issuance of a writ in the nature of Certiorari for quashing of Demand Notice dated 23.10.2019 and 19.06.2020 , Annexure P-1 and Annexure P-2, respectively, issued by Respondent Nos. 2 and 3, being illegal, arbitrary and without authority of law;

AND

Further for the issuance of a writ in the nature of Mandamus directing the Respondents to issue approval and grant part completion certificate to the Petitioner, pursuant to its Application dated 08.02.2018 (Annexure P-9) in the CLU Permission already granted to the Petitioner for the land falling in the revenue estate of village Malpura and Joniwas, Distt. Rewari.

AND



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Further for the issuance of a writ in the nature of Certiorari quashing the Rejection Letter dated 04.07.2024, Annexure P-15, issued by Respondent No.3 whereby the Petitioner's request for additional occupancy certificate was not acceded to."

Learned Senior counsel for the petitioner submits that vide impugned letter dated July 04, 2024 (P-15), the Director, Town and Country Planning, Haryana (respondent No.2), has declined permission for grant of Occupation Certificate (OC) for the concerned building, owing to non deposit of 10% applicable External Development Charges (EDC) i.e. Rs.4,45,67,530/-, as per policy dated January 15, 2002. Further, he submits that the petitioner has developed an industrial project on an area measuring 57.65 Acres, in the revenue estate of village Malpura and Joniwas, District Rewari (Haryana), for which the respondent authorities had granted OC way back on February 06, 2002. He asserts, for the petitioner carried out further developments, even the Additional Occupation Certificates were granted by the competent authority on August 20, 2003 as also on February 08, 2005. Not just that, as even thereafter, the petitioner had carried out further expansion, in sync with the sanctioned building plan, it applied for additional/occupation certificate on February 08, 2018. However, it is urged that after a lapse of 20 months, vide impugned letters dated October 23, 2019 (P-1) and June 19, 2020 (P-2), three fold demands were raised, qua the composition charges, labour cess and EDC. And, the requisite amount, as regards composition charges and labour cess, already stood paid. However, it is submitted that the impugned demand is palpably erroneous for multiple reasons, as demonstrated in the petition, for the EDC demand ought not to have been associated with the grant of expansion occupation certificate. Further, the demand for EDC, raised by the authorities, after 36 years of the permissions/approvals granted for Change of Land Use (CLU), is apparently unsustainable. Still further, expansion area was constructed by spending a substantial amount, in accordance with the building plan sanctioned by none other than the Director, Town and Country Planning, Haryana (DTCP).

Whereas, there was no mention of EDC as a requisite for awarding



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expansion occupation certificate. He asserts that DTCP, in the given circumstances, was only required to examine if the developments carried out by the petitioner were in sync with the sanctioned plans for granting occupation certificate. So much so, nothing is indicated in the impugned order dated July 04, 2024 (P-15) as to under what provision the impugned demand was raised by the respondent authorities. For, under the Haryana Development and Regulation of Urban Areas Act, 1975, EDC is applicable only when the licence for development is sought, which apparently is not the case in the petition at hand.

As regards the policy dated January 15, 2002 (P-17), it is submitted that the same is prospective in nature. Whereas, the petitioner was granted permissions/approvals for the CLU as back as on September 05, 1983, and the rates applicable were fixed, in terms of the policy dated August 14, 1996.

Served with the advance copy of the petition, Mr. Ankur Mittal, learned Additional Advocate General, Haryana, is present in Court on behalf of the respondents. At the outset, he vehemently disputes that claim of the petitioner as regards the rights of the authorities to claim EDC. He submits that pursuant to the agreement that was entered into between the parties, it was made clear that the petitioner would be obliged to pay the EDC as and when demanded. Similarly, even at the time when first occupation certificate was issued on February 06, 2002, the authorities had reiterated its rights to recover the EDC. Therefore, he asserts that the obligation/liability of the petitioner to remit the requisite amount in this regard cannot be disputed. Further, urbanizable limits were extended in the year 2007, and it was only thereafter, the authorities could work out the requisite amount that was recoverable as EDC. However, as always, he fairly submits, for the competent authority is already in seisin of the matter, it would be expedient, if the petition is disposed of, at this stage, to enable the respondent authorities to consider the claim of the petitioner and pass necessary orders, in accordance with law. Further, he submits that before any such orders are passed, the petitioner, through its authorized representative, shall also be heard. And, a formal communication in this regard will be issued to it, well

in advance.



Learned Senior counsel for the petitioner is agreeable to the course suggested by the learned State counsel and submits that let the petition be disposed of in terms of the statement made by him. However, he asserts that owing to non issuance of occupation certificate, that the petitioner had applied on February 08, 2018, its business interest is gravely impaired. Therefore, the matter being time sensitive, the authorities be directed to consider and decide the matter at the earliest.

To this, learned State counsel submits that the necessary orders in this regard shall be passed within four weeks from today.

In the wake of the position sketched out above, and in terms of the statement made by learned counsel for the parties, this petition is accordingly disposed of.

This Court is sanguine that the authority shall consider/examine the matter in the right earnest, and pass appropriate orders, within the time indicated by learned State counsel, assigning reasons in support thereof.

Needless to assert that this order shall not constitute an expression of opinion on the merits of the case of either party, for, as indicated earlier, the competent authority shall examine the grievances of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

21.08.2024
deepak

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No